



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

JUN 15 2004

OFFICE OF  
CIVIL RIGHTS

**RETURN RECEIPT REQUESTED**

Cert. No. 7002 2410 0004 4323 9955

**In Reply Refer To:**

EPA File No. 07R-03-R6

Hilton Kelly, Founder  
Community In-Power and Development Association  
1301 Kansas Avenue  
Port Arthur, Texas 77640

**Re: REJECTION OF ADMINISTRATIVE COMPLAINT**

Dear Mr. Kelly:

On September 26, 2003, the Community In-Power Development Association (CIDA) filed an administrative complaint with the U.S. Environmental Protection Agency (EPA) Office of Civil Rights (OCR) against the Texas Commission on Environmental Quality (TCEQ). The complaint alleges that TCEQ engaged in concerted and systematic discriminatory conduct through its indifference to environmental regulations and responsibilities, and through the use of discriminatory permitting and enforcement practices. The complaint also alleges that TCEQ's conduct denied residents, people of color and low-income citizens, equal protection of the law. After careful consideration, OCR has concluded that it cannot accept your complaint for investigation, because it does not meet the jurisdictional requirements for acceptance stated in EPA's nondiscrimination regulations.

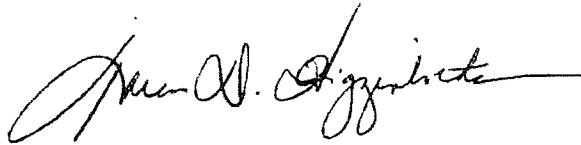
OCR is responsible for processing and investigating complaints of discrimination filed against programs or activities that receive financial assistance from EPA. Pursuant to EPA's Title VI implementing regulations at 40 C.F.R. Part 7, OCR conducts a preliminary review of Title VI complaints for acceptance, rejection, or referral. 40 C.F.R. § 7.120(d)(1). To be accepted for investigation, a complaint must meet the jurisdictional requirements described in the Part 7 regulations. 40 C.F.R. § 7.120. First, it must be in writing. Second, it must describe an alleged discriminatory act that, if true, violates the Part 7 regulations (*i.e.*, an alleged discriminatory act based on race, color, or national origin). Third, it must be filed within 180 days of the alleged discriminatory act. Finally, because EPA Title VI regulations apply to recipients of EPA financial assistance, the complaint must be filed against an EPA recipient that allegedly committed the

discriminatory act. 40 C.F.R. § 7.15. (A copy of EPA's non-discrimination regulations is enclosed for your convenience.)

OCR has concluded that it cannot accept your complaint for investigation because the complaint is untimely. If a complainant alleges continuing acts of discrimination, the complaint must be filed within 180 days after the date of the last alleged discriminatory act. This complaint was filed on September 26, 2003. All of the alleged discriminatory acts listed in your complaint occurred on or before May 17, 2002. Thus, these acts occurred more than 180 days before you filed this complaint. Therefore, OCR cannot accept the complaint for investigation.

If you have any questions, please contact Helena Wooden-Aguilar of the OCR External Compliance Program by telephone at (202) 343-9681, via electronic mail at [wooden-aguilar.helena@epa.gov](mailto:wooden-aguilar.helena@epa.gov), or by mail at U.S. EPA, Office of Civil Rights, Mail Code 1201A, 1200 Pennsylvania Avenue, NW, Washington, D.C., 20460-1000.

Sincerely,



Karen D. Higginbotham  
Director

Enclosure

cc: Stephen G. Pressman, Associate General Counsel  
Civil Rights Law Office (MC 2399A)

Barry Hill, Director  
Office of Environmental Justice (MC 2201A)

Sherry Brown-Wilson, Title VI Coordinator  
EPA Region VI